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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Alexander K. Mills

FOR: **METHOD FOR NONINVASIVE
CONTINUOUS DETERMINATION
OF PHYSIOLOGIC
CHARACTERISTICS**

SERIAL NO. **10/008,245**

FILED: **November 7, 2001**

ART UNIT NO: **3736**

EXAMINER: **M. J. Kremer**

Attorney Docket No: **WT-02-004C**

**PETITION TO ACCEPT AN UNINTENTIONALLY
DELAYED PRIORITY CLAIM UNDER 37 C.F.R. 1.78(a)**

Commissioner for Patents
Box DAC
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

On October 6, 2000, U. S. Application No. 09/684,104, entitled "Method for Noninvasive Continuous Determination of Physiologic Characteristics", was filed in the USPTO. The named inventor on the application, which issued as U.S. Pat. No. 6,537,225 on March 25, 2003, is Alexander K. Mills.

On November 7, 2001, the above referenced continuation-in-part application was filed in the USPTO. The application was assigned Attorney Docket No. WT-02-004C to reflect that the application was a continuation-in-part (CIP) of Application No.

09/684,104. The named inventor on the application, which is still pending, is similarly
Alexander K. Mills.

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OFFICE OF PETITIONS

The Utility Patent Application Transmittal Form that accompanied the application did not, however, indicate that the above referenced application was a CIP. The specification further failed to provide the appropriate reference to the prior filed application, i.e. Application No. 09/684,104. It is respectfully submitted that the noted inadvertent errors were unintentional.

On April 7, 2003, our office received the first substantive Office Action in the subject application. As set forth in the Declaration of Ralph C. Francis, filed concurrently herewith, upon receipt of the Action it was noted, for the first time, that the claim for domestic priority was not submitted with the application or indicated on the specification.

Applicant thus respectfully submits that the entire delay between the date the priority claim was due, i.e., November 7, 2001, and the date the claim is being submitted was unintentional.

Applicant submits herewith the requisite surcharge under 37 C.F.R. 1.17(t) in the amount of \$1240.00.

Applicant accordingly respectfully requests that the Applicant's claim of priority to Application No. 09/684,104 be accepted.

Respectfully submitted,
FRANCIS LAW GROUP

By: 

Ralph C. Francis
Reg. No. 38,884

Dated: May 15, 2003
1808 Santa Clara Avenue
Alameda, CA 94501
Tel: (510) 769-9800

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service on this date 5-15-03 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV348079802US addressed to the Commissioner for Patents, Box DAC, P.O. Box 1450, Alexandria, VA 22313-1450.

Danielle Gragg

Name of person mailing document

Danielle Gragg